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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
07/870,759	04/20/1992	JEAN-YVES CHENARD	03203.0006-0	2126
22852	7590	09/02/2004		
FINNEGAN, HENDERSON, FARABOW, GARRETT & DUNNER LLP 1300 I STREET, NW WASHINGTON, DC 20005				
			EXAMINER JAGANNATHAN, VASUDEVAN SALEM	
			ART UNIT 1714	PAPER NUMBER

DATE MAILED: 09/02/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	Application No. 07/870,759	Applicant(s) CHENARD ET AL.	
	Examiner Vasu Jagannathan	Art Unit 1714	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on Telephone call fr Att. Troilo on 9/2/04.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 324-401 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 324-351, 353, 355-360, 362 and 364-401 is/are rejected.
- 7) ☒ Claim(s) 352, 354, 361 and 363 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |  |
|--|--|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input checked="" type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)                        |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____   |

### **Supplemental Office Action**

Claims 352, 354, 361 and 363 are objected to as being dependent upon a rejected base claim (in this case rejected independent claims 349 and 358), but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

The present action supplements the Final action mailed on June 4, 2004. In that action, while the Office Action Summary indicated that all claims 324-401 stood rejected, through an oversight the body of the action itself did not include claims 352, 354, 361 and 363. This is apparent from the Table that gave an overview of the rejections of record. See page 2 of the Final action.

On September 2, 2004 Attorney Troilo telephoned the undersigned examiner to ask about the discrepancy in the status of the above four cited claims.

The record shows that these claims are *process* claims (albeit dependent claims) which were originally not included in the rejection of the corresponding product claims under Obviousness-type Double Patenting over the *product* claims already granted to Kornbaum et al (US 4,412,897). Moreover, these claims cannot be rejected over prior art of record because component (b) in these claims is specified to have a particular formula RCOOR'SH or (b) is recited as specifically named embodiments of the above formula. As explained on page 3 of the Final action, the examiner recognizes that prior art does not disclose compositions *or processes* where (b) is RCOOR'SH (or specifically named embodiments thereof) *in and of itself* when present in conjunction with the metal-containing stabilizer (a). This, incidentally, is in contrast to the situation presented by the corresponding independent claims 349 and 358 that do stand rejected over prior art.

For the above reasons, the objection is warranted.

**The applicants are reminded that the rejections of claims 324-351, 353, 355-360, 362 and 364-401 still stand as set forth in the Final action mailed June 4, 2004. Those rejections are hereby incorporated by reference.**

### **Conclusion**

**THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication should be directed to Vasu Jagannathan at telephone number (571) 272-1119.

September 2, 2004

*Vasu Jagannathan*  
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